

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

ELANE TRAN NGUYEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-22-712-D</u>
)	
ROADLINK EXPRESS, INC.,)	
)	
and)	JURY TRIAL DEMANDED
RITA MAE MCLEOD,)	
)	
)	
Defendants.)	

NOTICE OF REMOVAL AND JURY DEMAND

Please take notice that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Roadlink Express, Inc. (“Roadlink”) and Rita Mae McLeod (“McLeod”)(hereinafter collectively “Defendants”) appearing by and through their undersigned counsel of record, hereby remove the above captioned action to this Court from the District Court of Cleveland County, Oklahoma, where it was previously assigned case number CJ-2022-838, to the United States District Court for the Western District of Oklahoma. In further support of this removal, Defendants state as follows:

1. On July 26, 2022, Plaintiff filed her Petition in the District Court of Cleveland County, Oklahoma. The District Court of Cleveland County, Oklahoma is located in the United States District Court, Western District of Oklahoma.

2. On July 30, 2022, Defendant Rita Mae McLeod was purportedly served in this matter by United States Postal Service certified mail by and through a family member. On August 2, 2022, it appears that an individual at address in Blaine, MN, was purportedly served on behalf of Roadlink Express, Inc. Such service was not valid as this address is not Defendant

Roadlink's current address nor has the individual purportedly served been identified as an agent and/or employee of Roadlink. Therefore, Defendant Roadlink Express, Inc. has not been properly served to date.

3. This case is being removed to Federal Court less than twenty (20) days from the date Plaintiff's claim to have served either Defendant. Accordingly, this notice of removal is timely because it has been filed within thirty (30) days of the date that Defendant McLeod was purportedly served. Defendants reserve the right to challenge service should it become clear that proper service has not been completed on either Defendant.

4. Any civil action filed in a state court over which a federal district court would have original jurisdiction may be removed. 28 U.S.C §1441(a). In her Petition, Plaintiff has alleged compensatory and punitive damages in excess of \$75,000 related to an automobile accident involving a tractor-trailer and a passenger vehicle that allegedly occurred on or about November 9, 2021. (Exhibit 1, Plaintiff's Petition ¶ 5-8).

5. This case is removable to federal court because this Court has original subject matter jurisdiction on diversity grounds pursuant to 28 U.S.C. § 1332(a)(1) and (2) because complete diversity of citizenship exists between the parties and the amount in controversy is in excess of the federal court's jurisdictional requirements. Accordingly, Defendant removes this entire action to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. §§ 1441 and 1446.

6. Plaintiff's Petition asserts, among other things, that Plaintiff is a resident of Oklahoma County, Oklahoma. (Exhibit 1, ¶ 1).

7. Defendant Roadlink Express, Inc. is a Minnesota corporation with its principal place of business in Ham Lake, Minnesota. (Exhibit 1, ¶ 2).

8. Defendant Rita Mae McLeod is a citizen of the state of North Carolina. (Exhibit 1, ¶ 3).

9. There is complete diversity in this case as named Plaintiff and Defendants are citizens of different states.

10. Plaintiff's Petition specifically asserts that Plaintiff is seeking damages "in excess of \$75,000.00." (Exhibit 1, P. 2).

11. Plaintiff last demanded payment of an amount in excess of \$75,000.00 prior to filing suit to resolve her claim for damages.

12. Plaintiff's prayer for relief in her Petition, and the last demand to resolve these claims before suit was filed, demonstrate the amount in controversy in this case is in excess of \$75,000.00 and Defendants have thereby satisfied the jurisdictional requirement contained in 28 U.S.C. 1332(a).

13. Defendants have demonstrated that the amount in controversy exceeds the jurisdictional threshold of \$75,000 by the evidence available to the Defendants at the time of removal and by a preponderance of the evidence. See *McPhail v. Deere & Co*, 529 F.3d 947, 956 (10th Cir. 2008).

14. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants or contained within the court file and available to Defendants at the time of this removal have been attached. Plaintiff's Petition is attached as Exhibit 1. The court docket sheet is attached as Exhibit 2. Certificate of Service regarding Roadlink Express, Inc. is attached as Exhibit 3. Certificate of Service regarding Rita Mae McLeod is attached as Exhibit 4. The Entry of Appearance of Plaintiff's counsel is attached as Exhibit 5. These are the court records available to Defendants that have been filed in the District Court of Cleveland County,

Oklahoma. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court for the Western District of Oklahoma is the federal district court for the district embracing the place where the state court suit is pending, Cleveland County, Oklahoma.

15. Written notice of the filing of this Notice of Removal will be served on Plaintiff's counsel and a copy will be filed with the Clerk of the Circuit Court of Cleveland County, Oklahoma, and is attached as Exhibit 6.

DEMAND FOR JURY TRIAL

Defendants Roadlink Express, Inc. and Rita Mae McLeod hereby demand a trial by jury on all issues pending in this case for which they have a right to have decided by a jury.

Respectfully submitted,

MATTEUZZI & BROOKER, P.C.

/s/ Michael D. Matteuzzi

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ATTORNEYS FOR DEFENDANTS

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MCLEOD**

CERTIFICATE OF SERVICE

The undersigned certifies that on the 18th day of August, 2022 that a true and correct copy of the foregoing was filed electronically via the Court's CM/ECF electronic filing system with a copy sent via electronic mail to the following:

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